

reply brief rebutting AII's argument, oral argument will help highlight the differences between Northwell's arguments and the arguments already raised by Plaintiff, and will demonstrate that AII's position is incorrect. However, since this argument was raised by AII in its response briefing, the first timely opportunity for Northwell's to request oral argument in light of AII's response was in conjunction with Northwell's reply briefing.¹

AII's brief in opposition to Northwell's request for oral argument also attempts to shoehorn in, without leave of Court, a new Sur-Reply argument to Northwell's Motion that is unrelated to Northwell's request for oral argument. AII adds an argument that, because Mrs. Bell is now deceased, the confidentiality concerns Northwell cites to in its Motion are no longer relevant. As an initial matter, there is no reason why AII could not have timely raised this issue in its initial response to Northwell's Motion, and it is not properly raised now in a response to a request for oral argument. In any event, AII's argument is without merit. Northwell required, and Dr. Moline obtained, institutional review board ("IRB") approval for Dr. Moline's research, which contained the confidentiality requirements that spring from the regulations set forth in HHS's Policy for Protection of Human Research Subjects. Whether future research would be subject to similar IRB requirements given that an individual is deceased is irrelevant to the fact that—at the time the research at issue was conducted—IRB approval was required and obtained. Therefore, for the reasons set forth in Northwell's Motion and its associated briefing, Northwell's Motion should be granted.

¹ AII also argues that Local Rules were violated because the parties did not meet-and-confer. There is no requirement in the Local Rules that the parties meet-and-confer regarding a request for oral argument.

This the 22nd day of February, 2021.

/s/ John H. Lawrence

John H. Lawrence

N.C. State Bar No. 45462

Steven G. Pine

N.C. State Bar No. 44705

K&L Gates LLP

430 Davis Drive, Suite 400

Morrisville, NC 27560

Telephone: (919) 466-1112

john.lawrence@klgates.com

steve.pine@klgates.com

ATTORNEYS FOR NORTHWELL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 22, 2021, the foregoing Reply was filed via ECF filing, which will serve all counsel of record in the above-referenced matter.

This the 22nd day of February, 2021.

/s/ John H. Lawrence

John H. Lawrence

N.C. State Bar No. 45462

Steven G. Pine

N.C. State Bar No. 44705

430 Davis Drive, Suite 400

Morrisville, NC 27560

Telephone: (919) 466-1112

john.lawrence@klgates.com

steve.pine@klgates.com

ATTORNEYS FOR NORTHWELL

CERTIFICATE OF WORD COUNT

This reply brief complies with Local Rule 7.3(d)(1)'s word count limitation. The word count feature on Microsoft Word states that the word count of the counted portions of this brief is 694, within the 3,125 word limit.

/s/ John H. Lawrence
John H. Lawrence